

## § 31.3302(a)-2

## 26 CFR Ch. I (4-1-10 Edition)

were paid after January 31, 1962, the M Company is entitled to a credit of 90 percent of the amount which would have been allowable as credit had the contributions been paid on time (90 percent of \$8,000, or \$7,200), the net liability for Federal tax being \$5,200 (\$12,400 minus \$7,200).

*Example 2.* The facts are the same as in example 1, except that the M Company is liable for and pays total State contributions of \$12,000, instead of \$8,000. If the contributions had been paid on or before January 31, 1962, the amount allowable as credit would have been \$10,800 (2.7 percent of wages of \$400,000). Since the contributions were paid after January 31, 1962, the M Company is entitled to a credit of 90 percent of \$10,800, or \$9,720, the net liability for Federal tax being \$2,680 (\$12,400 minus \$9,720).

*Example 3.* The Federal return of the R Company for the calendar year 1961 discloses a total tax of \$3,100. The company is liable for total State contributions of \$2,700 for such year. The due date of the Federal return is January 31, 1962, no extension of time for filing the return having been granted. The R Company pays \$1,700 of the total State contributions on or before such date, and the remaining \$1,000 on February 1, 1962. If the \$1,000 had been paid on or before January 31, 1962, that amount could have been credited against the tax (such amount plus the \$1,700 paid on or before January 31, 1962, not exceeding the aggregate credit allowable). Since the \$1,000 was paid after January 31, 1962, the R Company is entitled to a credit of 90 percent of this amount or \$900, plus the credit of \$1,700 allowable for the contributions paid on or before January 31, 1962. The net liability for Federal tax is thus \$500 (\$3,100 minus \$2,600).

(4) *Amount of credit allowable when contributions are paid to wrong State.* Contributions for the taxable year paid into a State unemployment fund which are required under the unemployment compensation law of that State, but which are paid with respect to remuneration on the basis of which the taxpayer had, prior to such payment, erroneously paid an amount as contributions under another unemployment compensation law, shall be deemed for purposes of the credit to have been paid at the time of the erroneous payment. If, by reason of such other law, the taxpayer was entitled to cease paying contributions for such taxable year with respect to services subject to such other law, the payment into the proper fund shall be deemed for purposes of credit to have been made on the date the Federal return for such year was

actually filed by the taxpayer under § 31.6011(a)-3.

*Example.* Employee N, whose Federal return for the calendar year 1961 discloses a total tax of \$3,100, employs individuals in State X and State Y during the calendar year 1961. N assumes in good faith that the services of his employees are covered by the unemployment compensation law of State Y, and pays as contributions to State Y the amount of \$2,700 based upon the remuneration of the employees. All of the services were in fact covered by the unemployment compensation law of State X, and none by the law of State Y. The payment to State Y was made on January 31, 1962. When the error was discovered thereafter, N paid to State X contributions in the amount of \$2,700 based upon such remuneration. Since the contributions were paid to State Y on January 31, 1962, the contributions to State X are, for purposes of the credit, deemed to have been paid on such date. N is entitled to a credit of \$2,700 against the Federal tax of \$3,100, the net liability for Federal tax being \$400 (\$3,100 minus \$2,700).

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6658, 28 FR 6632, June 27, 1963]

## § 31.3302(a)-2 Refund of State contributions.

If, subsequent to the filing of the return, a refund is made by a State to the taxpayer of any part of his contribution credited against the tax, the taxpayer is required to advise the district director of the date and amount of such refund and the reason therefor, and to pay the tax, if any, due as a result of such refund, together with interest from the date when the tax was due.

## § 31.3302(a)-3 Proof of credit under section 3302(a).

Credit against the tax for any calendar year for contributions paid into State unemployment funds shall not be allowed unless there is submitted to the district director:

(a) A certificate of the proper officer of each State (the laws of which required the contributions to be paid) showing, for the taxpayer:

(1) The total amount of contributions required to be paid under the State law with respect to such calendar year (exclusive of penalties and interest) which was actually paid on or before the date the Federal return is required to be filed; and